IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 123 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAJABHAI LEELABHAI MARU

Versus

STATE OF GUJARAT

Appearance:

MR BP GUPTA for Petitioner

MR SUDHANSU S PATEL, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 21/04/2001

ORAL JUDGEMENT

Rule. With the consent of learned counsel for the parties, this petition is taken up for final hearing today. The petitioner was given licence to run the fair price shop at village Samega, Taluka Manavadar, District Junagadh. In the year 1996 an inquiry was made by the Inspector, Civil Supplies and irregularity which were

only technical in nature were said to have been alleged against the petitioner. Therefore, on the basis of the said irregularities the licence of the petitioner was cancelled. The petitioner challenged order cancelling the licence of the petitioner by filing Special Civil Application No. 7061/98. This Court by the order dated 11-9-1998 directed the petitioner to prefer a separate application for issuance of fresh licence and authority concerned was directed to consider and decide the application of the petitioner sympathetically in accordance with law. The aforesaid petition was disposed of with a direction that as and when the petitioner moves the application for fresh issuance fresh licence and the same shall be considered sympathetically by the respondent authority in accordance with law.

2. Thereafter, the petitioner moved fresh application before the authority concerned in the month of November 1998 pursuant to the order dated 11-9-1998 passed in Special Civil Application No.7061/98. The application of the petitioner was considered by the Taluka Committee on 29-12-1998 and the petitioner was found fit and eligible for issuance of licence in his favour. Thereafter, the matter remained pending before the District authority concerned and on 5-8-2000 the respondent no. 2 - The District Collector and Chairman, Junagadh District Civil Supplies and Consumer Protection Advisory Committee decided that, long time has passed after the issuance of the notification and therefore it was recommended by the members that the whole proceedings be cancelled and a fresh notification be issued for that purpose. The operation of the order dated 5-8-2000 was stayed by this Court vide order dated 25-1-2001, as that order has been challenged in this petition.

3. Learned counsel for the petitioner submitted that the District Civil Supplies and Consumer Protection Advisory Committee has committed manifest error in passing the order dated 5-8-2000 in rejecting the application of the petitioner only on the ground that long time has passed after issuing the notification and direction has been issued to publish a fresh notification for that purpose.

4. I have considered the arguments of the learned counsel for the parties and perused the material on record. It appears that after filing the application of the petitioner, the Taluka Civil Supplies and Consumer Protection Advisory Committee has approved the application of the petitioner recommending the name of the petitioner for issuance of fresh licence for fair

price shop. But the District Civil Supplies and Consumer Protection Advisory Committee had kept the recommendations of the Taluka Committee pending for a period upto 5-8-2000. It is not a fault of the petitioner. But it is a fault on the part of the District Civil Supplies and Consumer Protection Committee and that has not been considered. But the application of the petitioner has been rejected only on the ground that long time has elapsed.

5. In the facts and circumstances of this case, this petition is allowed and impugned order dated 5-8-2000 passed by the District Civil Supplies and Consumer Protection Advisory Committee is hereby quashed and set aside and the District Civil Supplies and Consumer Protection Advisory Committee is hereby directed to consider the recommendation of Taluka Civil Supplies and Consumer Protection Committee and to pass appropriate order in accordance with law within a period of two months from the date of receipt of certified copy of this order. It is hoped and expected that the District Civil Supplies and Consumer Protection Committee shall pass detailed order giving out reasons for arriving its decision. Rule is made absolute to the aforesaid extent, with no order as to costs.

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/JVSatwara/